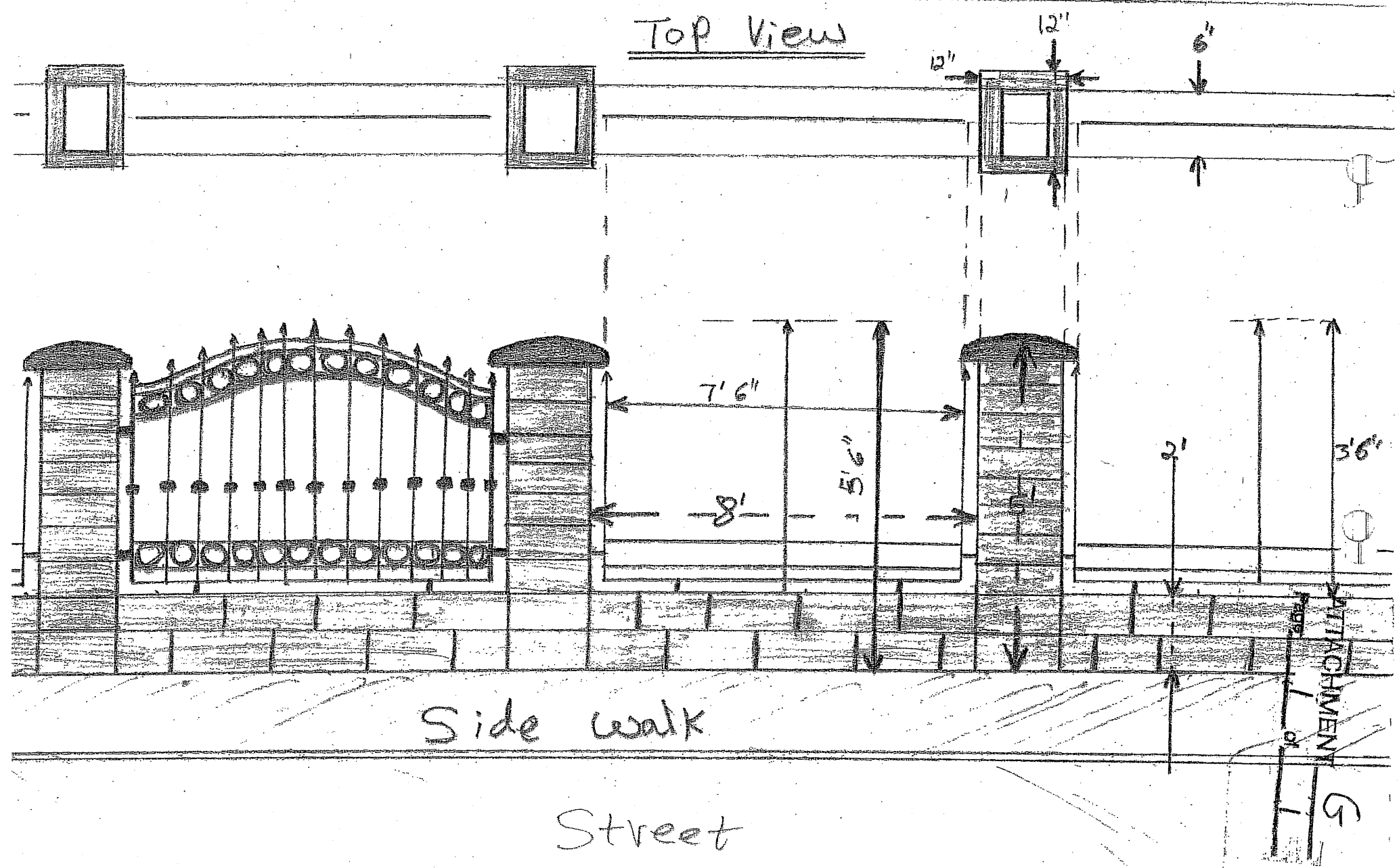


on en S Laura Sigura 408-733-4248

Top View



To Whom It May Concern:

June 26, 2006

From: Peter and Kathleen Tobias
771 Lewiston Court
Sunnyvale, CA 94087

Re: The appeal to the denial of 5'6" variance for a corner fence located at
1386 Lewiston Drive

Our home is located across from the side yard of 1386 Lewiston Drive, a home owned by Ron and Laura Siguera. We want to again restate our OPPOSITION to a variance for a 5'6" fence to be built on the corner lot. We agree with the recommendations of both the Planning Division of the City and the Hearing Officer on June 14, 2006, that the request for the variance be denied.

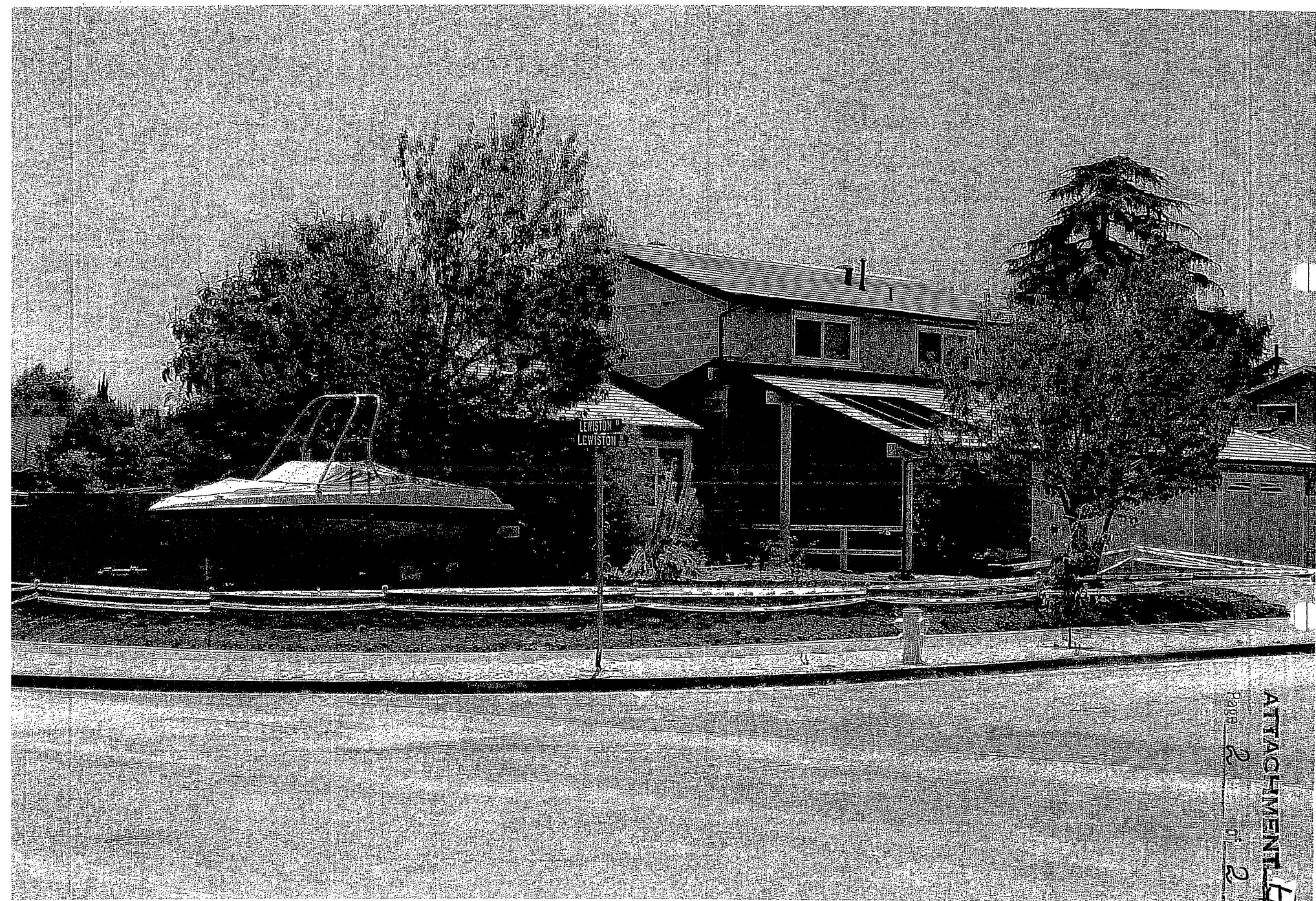
The Planning Commission should be aware of the following information and concerns:

- Our end of the court is very busy. There is a lot of traffic in and out of the court. The other end of the court is quiet.
- There are 19 vehicles among the five homes affected by the fence. Many of them are large pickup trucks and SUV's.
- We are concerned about the safety issue as a 5'6" fence affecting the corner vision triangle for both vehicles and the children who play in the street.
- If the owner is concerned about access to the backyard and wanted to highlight the landscaping, perhaps a 5' to 6' rod iron fence could replace the wooden fence from the house to the sidewalk. Both the backyard safety issue and the landscaping issue could then be addressed.
- If the owner installed the regulation THREE FOOT fence, we would have no objection.

Unfortunately, due to a pre-planned vacation, we will be unable to voice our concerns in person at the July 10, 2006, meeting with the Planning Commission.

Peter and Kathleen Tobias

Peter Tobias
Kathleen Tobias



1386 Lewiston Drive

June 24, 2006

ATTACHMENT E
Page 2 of 2



**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

**MINUTES
Wednesday, June 14, 2006**

ATTACHMENT I
Page 1 of 2

2006-0467: Application for a Variance from Sunnyvale Municipal Code section 19.48.020 for a new fence greater than three feet in the corner vision triangle. The property is located at **1386 Lewiston Drive** (near Cascade Dr.) in an R-1 (Low Density Residential) Zoning District. (APN: 323-05-005)

In attendance: Ronan Sigura, Applicant; Kathleen Tobias, Neighbor; Coleen Hausler, Neighbor; Gerri Caruso, Administrative Hearing Officer; Steve Lynch, Project Planner; Luis Uribe, Staff Office Assistant.

Ms. Gerri Caruso, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

Steve Lynch, Project Planner, stated that the applicant is proposing a 5'6" high fence into the corner and driveway vision triangles of his property. The fence is on the property line along Lewiston Drive and Courts, immediately adjacent to the back of the sidewalk. There is also a double gate proposed near the street corner, intended to allow access to the reducible front and rear yards.

As part of this application, the applicant is proposing to remove the 6' high wood fence that is currently located between the front and reducible front yards. Staff does not recommend approval of this application.

Ms. Caruso opened the public hearing.

Ronan Sigura, Applicant, received and reviewed a copy of the staff report. The applicant mentioned that this is a very low traffic cul-de-sac. The applicant stated that someone would have to pass the fence by twelve feet in order to make a turn. Mr. Sigura stated that he got a majority of the neighbors to sign his petition which is included in the staff report.

Kathleen Tobias, Neighbor, stated that she believes the fence is too tall. She also mentioned that on her end of the cul-de-sac has heavy traffic flow. Ms. Tobias stated that her main concern was with the height of the fence.

Coleen Hausler, Neighbor, was curious to know if a stop sign would be put in at the intersection to help control traffic. Ms. Caruso stated that if the fence is approved one of the conditions is to add a stop sign. Ms. Hausler stated that she is not going to voice any objections but she would like staff to put into consideration that there will be bike traffic.

Ronan, Applicant, stated that after hearing the neighbor's statements he believes that a stop sign should be put in regardless of the outcome of the application. The applicant

stated that he would love to work with staff to come up with a design that will work for everyone.

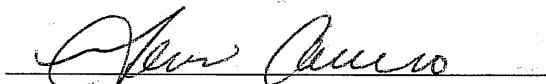
Ms. Caruso closed the public hearing.

Ms. Caruso, denied the variance because she was unable to make the findings and she felt the applicant had other options for achieving a secure yard without the front yard fence.

Ms. Caruso stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 2:41 p.m.

Minutes approved by:


Gerri Caruso, Principal Planner

PLANNING COMMISSION MINUTES OF JULY 10, 2006

2006-0467 – Appeal of the Administrative Hearing Officer denial of an application for a Variance from Sunnyvale Municipal Code section 19.48.020 for a new fence greater than three feet in the corner vision triangle. The property is located at **1386 Lewiston Drive** (near Cascade Dr.) in an R-1(Low Density Residential) Zoning District. (APN: 323-05-005) SL

Andrew Miner, Principal Planner, presented the staff report. He said this property is not unique or extraordinary as there are many similar corner lot configurations in Sunnyvale with a similar set of circumstances and granting of this Variance could create a precedent for other situations. He said staff was unable to make the findings and is recommending denial of the appeal and denial of the variance. Mr. Miner said a revised Attachment H has been provided on the dais, replacing a set of the wrong minutes with the correct minutes of the June 12, 2006 Administrative Hearing.

Comm. Hungerford asked staff to further comment about the many similar corner lot configurations that Mr. Miner mentioned. **Trudi Ryan**, Planning Officer, said the type of lot configuration staff is referring to is a property at the corner of a cul-de-sac that has a small number of homes in the cul-de-sac.

Comm. Ghaffary commented that on corner lots it is common that the back yard and the side yard are combined except the back yard is fenced. Ms. Ryan said that this is similar to other properties at the corner of cul-de-sacs and that the more narrow side of the property is called the front yard and the side yard by the street is called the reducible front yard.

Chair Klein opened the public hearing.

Ronen Sigura thanked the Planning Commission for hearing the appeal. He said he feels his property is unique. He said he would like to note that the speed limit is very slow and anyone who drives into Lewiston Court has to slow down almost to a stop due to a depression in the roadway. He said anyone entering the cul-de-sac has a 100% line-of-sight of his property prior to making the right hand turn into Lewiston Court. He said the proposed fence is not an endangerment or traffic issue. He said the proposed fence is almost 100% see-through, will beautify the neighborhood and that the landscaping plan ties the side yard to the front yard and will not be an obstruction. He said he is requesting the 5 foot 6 inch fence instead of the allowed 3-foot fence as he has little children and would like to feel secure in his yard. He said they have a spa and they would like the taller fence to help protect their home. He said he believe the 5 foot 6 inch iron fence would help prevent people from coming on to the property. He said the current fence is an unappealing wooden fence and his

goal is to provide a high-quality project that will beautify the neighborhood and not endanger anyone.

Comm. Hungerford asked Mr. Sigura if the proposal is to take out the existing wooden fence and replace it with the proposed fence. Mr. Sigura said yes that he would like to combine the side fence with the front fence and referenced four other cases, 1985-0386, 2002-0931, 2002-0934, 2002-0737 that were similar variance requests that were approved for variances from the vision triangle. Comm. Hungerford confirmed with Mr. Sigura that the spa is in the backyard. Mr. Sigura said what they are proposing is to combine the backyard with the side and front yard to have one large beautifully landscaped yard that would be secure and protected.

Comm. Ghaffary asked Mr. Sigura about the spikes on the top of the fence. Mr. Sigura said the spikes are high-quality, curved and not sharp and would not puncture. Comm. Ghaffary referred to Attachment D, page 1, the Photoshop rendering of the proposed fence, and said the picture does not show the concrete posts. Mr. Sigura said he realized this and to show the posts he provided the drawing of the fence in Attachment F, page 4. He provided a correction to the drawing specifications and said the drawing shows that the iron fence sections are 8 feet, but that the iron fences sections are actually 10 feet in width.

Vice Chair Sulser asked staff to comment on the four approved variances that Mr. Sigura referenced and how this application may be different from these approved variances. Ms. Ryan commented that the minutes for two of the cases, 2002-1931 and 2002-0934 were attached in error as Attachment H, and that she has no information with her regarding the 1985 variance. She said according to the minutes and her memory that the designs of the fences on the other variances were a bit different and two were driveway vision triangle variances.

Al Anderson, a resident of Sunnyvale, spoke in support of the project. He said Mr. Sigura has been a neighbor for seven years and that he is continually improving his property. He said he feels that the proposed fence would be an improvement for the neighborhood and that he is all for it.

Mike Marcellini, a resident of Sunnyvale, spoke in support of the project. He said Mr. Sigura spoke with many of the neighbors and made adjustments as needed and collected many signatures in support of the fence variance. He said a couple of neighbors are not comfortable with the variance. Mr. Marcellini said he is comfortable with the design, that he does not find any issue with the vision triangle concerns, and that replacing the wooden fence with the proposed fence would improve the neighborhood. He said he is a neighbor and has kids and has no issues regarding this fence being a safety issue.

Glenn Morley, a resident of Sunnyvale, spoke in support of the project. He said he is a neighbor of Mr. Sigura and commented that Mr. Sigura maintains his

property well, and puts money into improving his property, which improves the neighborhood. Mr. Morley commented that if the rest of the neighbors did the same it would be a better neighborhood. He expressed his support of the proposed plans.

Chair Klein closed the public hearing.

Comm. Hungerford asked staff if they know what the parking requirements are for parking near a corner as Attachment D, page 1 shows a vehicle parked near the corner. He said on his site visit that the vehicles parked around the corner were his biggest obstruction in making the turn out of the cul-de-sac and on to Lewiston Drive. Ms. Ryan said she is not an on-street parking requirement expert, but based on the picture in Attachment D that she believes the vehicle is legally parked, and that there is some limit on how close a vehicle can be parked near the corner.

Comm. Rowe commented that she has a copy of the single-family design techniques and it shows possible fencing for corner lots. She said the suggestions are low shrubs and low fencing so there are no visual barriers created and that the design techniques indicate that front yard fencing should be kept low and open in character. Ms. Ryan confirmed that anything up to three feet can be reviewed and approved at the staff level without a variance.

Comm. Babcock moved for Alternative 1 to deny the variance. Comm. Simons seconded the motion.

Comm. Babcock said she is unable to make the findings to approve the variance. She said she applauds the applicant for working with the neighbors and likes the design of the fence. She said she would like to see it set back so it is not encroaching into the vision triangle, and it would still improve the neighborhood.

Comm. Rowe said she is unable to make the findings to approve the variance. Comm. Rowe said the Commission has guidelines to follow in making their decisions and that she feels this proposal does not warrant approval based on the guidelines. She said there are neighbors in support of allowing the variance, but other neighbors that feel the 5 foot 6 inch fence is too high. She said each variance has to be weighed and she could not find that approval of the variance would be in the best interest of the neighborhood. Comm. Rowe complimented the homeowner on the beautiful enhancements that the applicant has already made to his property and said that she would like to see the applicant come up with a compromise that would allow a similar fence and meet the guidelines of the City.

Comm. Simons said he agrees with his fellow commissioners and could not make all of the findings. He said he could possibly make one of the findings, that

this lot might be unique because of the shape of the cul-de-sac. He agreed that the design is wonderful, but commented that there may be durability issues as he had a neighbor that had a similar fence that only lasted about 15 years and had to be removed due to corrosion.

ACTION: Comm. Babcock made a motion on 2006-0467 uphold the decision of the Administrative Hearing Officer to deny the Variance. Comm. Simons seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This item is final unless appealed to the City Council no later than July 25, 2006.



ATTACHMENT K
Page 1 of 3

**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

**MINUTES
Wednesday, November 13, 2002**

2002-0737 - Application for a Use Permit for a front yard fence that is 7'9" in height where a maximum of 7 feet is allowed without a public hearing. The property is located at **365 East Iowa Avenue** in an R-2 (Low-Medium Density Residential) Zoning District. (APN: 209-24-070) CC

In attendance: Von Dale Vaughn, Owner/Applicant; Sandy Wilson, Tenant; Trudi Ryan, Administrative Hearing Officer; Christine Cannizzo, Project Planner; Gerri Caruso, Principal Planner; and, Gloria Barron, Recording Secretary.

Ms. Trudi Ryan, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Ryan announced the subject application.

Christine Cannizzo, Project Planner, presented the staff report. She announced that the application was for a Use Permit for a front yard fence that is 7'9" in height where a maximum of 7 feet is allowed without a public hearing. Staff summarized the proposed application and was unable to make the required findings for the front and reducible front yard fences and recommended denial of the Use Permit.

Ms. Ryan referred to the drawing provided in the staff report and stated that it did not appear to be drawn to scale and therefore made it difficult to determine where the corner visual triangle would be. She asked staff if the corner triangle extends to the back of the house. Staff responded that it extends beyond where the fence is on both the front and reducible front yards. Ms. Ryan asked staff if the existing fence along Flora Vista was also in the corner vision triangle but considered legal. Staff responded that the fence was in the corner vision triangle but was legal. Ms. Ryan asked staff if other design options were explored, with the applicant, for the fence. Staff responded that the discussion was raised with the applicant but the applicant was not interested in revising the design. Staff noted that it was indicated to the applicant that nothing over 3 feet is allowed in the corner vision triangle.

Ms. Ryan opened the public hearing.

Von Dale Vaughn, Owner, received and reviewed a copy of the staff report. He clarified that the fence located in the front is 6' 2" in height but because of the current landscaping of the sidewalk it measure 7'5". He noted that the side yard provides privacy for his tenant. He expressed concerns with security and noted that the view from the street is 18'6" from the curb to the fence. He stated that he has tried to keep the property clean, neat and attractive in the front.

Sandy Wilson, Tenant, concurred with Mr. Vaughn and stated that the front yard is very visually appealing. She stated that the side yard provides safety for her and expressed concerns that if the fence is taken down she will lose security and safety provided by the fence.

Ms. Ryan asked Mr. Vaughn, that now that he is aware of the 40-foot setback regulations, if he has explored another configuration that could still meet his goals for providing a secure private area. Mr. Vaughn felt that nothing would fit in along the 40-foot setback. Ms. Ryan explained that not everything would be 40 feet back and gave some examples using the drawings. Ms. Ryan asked staff if she was aware of any traffic verification conducted by the Traffic Division. Staff responded that the Traffic Division did go out and do a site visit and expressed concerns about the 40-foot vision triangle.

Ms. Ryan announced that she would like to obtain more information about how the vision triangle falls on the property and explore that with Planning and Traffic staff. She noted measurements would be from along the property line from inside the sidewalk. She stated that she was not comfortable with the full height of the fence in the vision triangle because it is a safety concern. She would like additional scaled information about that corner and noted that there might be some permutations that meet the needs of the applicant. Mr. Vaughn pointed out that there are no stop signs or yield signs either way on the streets for traffic to stop or prepare to yield. He added that having cars parked up to the corner of the fence creates a turning problem and a privacy problem. He suggested having that area be a non-parking area. Ms. Ryan stated that possibility could be explored. Mr. Vaughn stated that he spoke with staff about the possibility of lowering the fence but would have visual and security concerns.

Ms. Ryan closed the public hearing.

Ms. Ryan took the application under advisement until Monday, November 18, 2002 at 5:00p.m. This would allow time to schedule a field visit with traffic staff. She stated she would like to be clear on where the vision triangle is and what the previous condition of the property was before the taller fence was built. She would also like to explore other options for the fence/safety improvements in the neighborhood. Ms. Ryan shared staffs' concern with the appearance of the two fences and will give some thought to the coordination between the two fences.

Ms. Ryan stated that the decision is final unless appealed during the 15-day appeal period.

The meeting was adjourned at 2:33 p.m.

Addendum

The Planning Officer made a field inspection of the site with Gerri Caruso, Principal Planner, and Joe Avila, Traffic Engineer on Friday November 15, 2002 around 9:45 a.m. The inspection revealed that the existing fence impairs a clear view through the vision triangle, however, the additional height of the fence exacerbates the problem, particularly for vehicles travelling east on Iowa, that would otherwise be able to see the top of vehicles travelling south on Flora Vista. Because of the slow travel speeds on these roads the current obstruction has not been a problem.

2002-0737 365 E. Iowa Avenue

Minutes
November 13, 2002
Page 3 of 3

The site inspection further illustrated that the reducible front yard along Flora Vista is an appropriate location for a fenced, private, yard area.

Therefore, in order to provide privacy and to protect traffic safety, the Use Permit for a higher fence is approved with modified findings and with the conditions of approval recommended by staff with the following modifications:

- The fence location shall be revised to angle from the corner of the house to the Flora Vista property line, located no closer than approximately 25 feet from the front property line.
- Obtain a building permit for the fence.

Based on the following findings:

Findings - Use Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

Land Use and Transportation Element

Policy N1.1 Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Action Statement N1.1.1

Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

The modified fence location strikes a balance between "protecting the neighborhood aesthetic and providing safe streets" and providing convenient private open space.

2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District.

The modified fence location will not increase the obstruction to the corner vision triangle.

Minutes approved by:

Trudi Ryan, Planning Officer



**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

ATTACHMENT 4

Page 1 of 4

MINUTES

Wednesday, January 15, 2003

2002-0931 - Application for a Variance from SMC (Sunnyvale Municipal Code) section 19.48.020 to allow a four-foot fence in the driveway vision triangle. The property is located at **722 Santa Rosa Street** in an R-0 (Low-Density Residential) Zoning District. (APN: 205-10-029) RK

In attendance: Dave Walker, Applicant; Gary Borland, Neighbor; Trudi Ryan, Administrative Hearing Officer; Ryan Kuchenig, Project Planner; and, Gloria Barron, Recording Secretary.

Ms. Trudi Ryan, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Ryan announced the subject application.

Ryan Kuchenig, Project Planner, presented the staff report. He summarized the proposed application and stated that he did not feel the proposal met Sunnyvale Municipal Code or the intent of City-Wide Design Guidelines and therefore recommended denial of the Variance.

Ms. Ryan asked staff if the design of the fence was appropriate. Staff responded that the design was appropriate but the height was not. Ms. Ryan stated that she conferred with Traffic Engineering staff about their field visits and evaluation. She stated that because it is an open fence perhaps visibility would not be impaired.

Ms. Ryan opened the public hearing.

Dave Walker, Applicant, received and reviewed a copy of the staff report. He stated that many homes in the area have fences with the same design and are considered safe. He submitted photographs of fences to the Hearing Officer for review. He noted that a house two doors away was allowed to put up a fence with no permit. He felt his fence was safe and noted that he could see over the fence when he gets in his vehicle. Ms. Ryan asked if he could see when he gets in a sports car. He responded that he would not be able to see but that safety does not come from the fence it comes from the driver. Mr. Walker felt it was not fair that other people could have a fence and he could not.

Gary Borland, Neighbor, stated that he drove around the neighborhood and noticed that there were several house with fences that would be considered to have the vision triangle blocked. He stated that rules were being imposed on them but not everyone else.

Mr. Walker stated that he feels his fence is safe and his neighbors agree the fence is safe.

Ms. Ryan noted that it is important to realize that there could be fences in the neighborhood that were built under previous regulations where there was not a requirement to have the 10 foot vision triangle. Ms. Ryan made a comment to staff to make sure that the information provided to people adding fences is being delivered correctly, understanding there are both Building and Planning permits.

Ms. Ryan was able to make all three Findings for the Variance by stating the following: 1) There are a number of 4 foot high fences in the driveway vision triangle fences and it does not appear to be an increase in Public Safety accidents. She noted it is an open fence and that Traffic Engineering staff had indicated prior to the meeting that there is visibility. The use shows evidence of being unusual because it is not a solid fence. 2) The use itself is extraordinary because it is open and therefore not detrimental to the public welfare if visibility is available. 3) It meets the intent of the ordinance by not granting special privileges not enjoyed by other surrounding property owners.

Ms. Ryan approved the Variance with the Conditions of Approval suggested by staff. She asked staff to take a closer look at houses with front yard fences and make suggestions to Council to look at that in more detail.

Ms. Ryan closed the public hearing.

Ms. Ryan stated that the decision is final unless appealed during the 15-day appeal period.

The meeting was adjourned at 2:30 p.m.

Minutes approved by:

Trudi Ryan, Planning Officer



**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

ATTACHMENT 2
Page 3 of 4

**MINUTES
Wednesday, January 15, 2003**

2002-0934 - Application for a Variance from SMC (Sunnyvale Municipal Code) section 19.48.020 to allow a four-foot fence within the driveway vision triangle. The property is located at **718 Santa Rosa Street** in an R-0 (Low-Density Residential) Zoning District. (APN: 205-10-028) RK

In attendance: Gary Borland, Applicant; Dave Walker, Neighbor; Trudi Ryan, Administrative Hearing Officer; Ryan Kuchenig, Project Planner; and, Gloria Barron, Recording Secretary.

Ms. Trudi Ryan, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Ryan announced the subject application.

Ryan Kuchenig, Project Planner, presented the staff report. He summarized the subject application and was unable to make the required Findings for the Variance and recommended denial of the application.

Ms. Ryan asked staff if the design was appropriate to the site. Staff responded that the applicant notified staff that there was a similar design in Palo Alto. Staff did a site visit and approved of the design however, the height was the main issue. He noted that there is a Condition of Approval recommending that landscaping along the fence be added to mitigate the vinyl chain link look of the fence.

Ms. Ryan opened the public hearing.

Gary Borland, Applicant, stated that he spent a large sum of money having the front yard re-landscaped and added a sprinkler system for future vegetation. Mr. Borland noted that he relied on his previous testimony, from the previous application (722 Santa Rosa Street) regarding the character of the neighborhood to stand. He stated that the fence was 4 feet high to match his neighbor's height line. He stated that he would like to be able to close the gate and have his dogs outside. Mr. Borland noted that he used to have some bushes that were taller than 4 feet and obscuring the vision triangle and never had anyone complain. He also stated that when he is backing out of his driveway he could see vehicles coming or children walking by.

Dave Walker, stated that the neighborhood has really improved since the fences have gone up and that the trend is towards fences with greater security. He also stated that the houses are beautiful and people are taking pride in their homes.

Ms. Ryan closed the public hearing.

Ms. Ryan noted that similar to the previous application she found the use of the fence to be exceptional because it is an open fence design. She stated that based on the testimony of the hearing and an earlier conversation with the traffic staff, which looked at the issue in more depth, she was able to make the first finding. She was able to make the second Finding by stating that it is not a threat to public safety because there is still a visibility maintained. And as she stated in the previous application it is not a grant of special privileges as it is a character that has already been established in the neighborhood both casually and with permits and therefore she was able to make the third Finding.

Ms. Ryan approved the Variance with the Conditions of Approval recommended by staff with a modification to Condition of Approval #2 to assure that the landscaping within the vision triangle complies with the vision triangle requirements.

Ms. Ryan stated that the decision is final unless appealed during the 15-day appeal period.

The meeting was adjourned at 2:37 p.m.

Minutes approved by:

Trudi Ryan, Planning Officer